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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,479	12/11/2006	Joseph A. Fester	71189-1893	1230
20915	7590	09/03/2009		
MCGARRY BAIR PC 32 Market Ave. SW SUITE 500 GRAND RAPIDS, MI 49503			EXAMINER HOPKINS, ROBERT A	
			ART UNIT 1797	PAPER NUMBER
			NOTIFICATION DATE 09/03/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@mcgarrybair.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/595,479	<b>Applicant(s)</b> FESTER, JOSEPH A.	
	<b>Examiner</b> Robert A. Hopkins	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4-21-06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 recites “a vacuum cleaner”. There is a lack of antecedent basis for “a vacuum cleaner” in previous claim limitations.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,4-9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hitzelberger et al(7152275).

Hitzelberger et al teaches a vacuum cleaner comprising a housing (figure 3) defining a cyclone airflow chamber for separating contaminants from a dirt containing airstream, the housing further comprising a cyclonic chamber inlet and an airstream outlet in fluid communication with the cyclonic airflow chamber, a nozzle housing (figure 2) including a suction opening, the suction opening being fluidly connected with the cyclonic chamber inlet, an airstream suction source (30) fluidly connected to the suction

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opening and to the cyclonic airflow chamber, the suction source is adapted to establish and maintain a dirt containing airstream from the suction opening to and through the cyclonic chamber and through the airstream outlet, a dirt collecting bin(28) mounted to the housing adjacent the cyclonic airflow chamber and in communication therewith to receive dirt separated from the airstream in the cyclonic airflow chamber, a hollow standpipe(60) extending through the dirt collecting bin, in communication with the airstream outlet of the cyclonic airflow chamber and extending through a wall in the dirt collecting bin, and a filter chamber(not shown; column 4 lines 57-64) mounted to the dirt collecting bin has an inlet opening in communication with the standpipe to remove fine particles from the airstream that passes through the airstream outlet in the cyclonic airflow chamber. Hitzelberger et al further teaches a separator plate(84) between the cyclonic airflow chamber and the dirt collecting bin and separating the cyclonic airflow chamber from the dirt collecting bin, the separator plate having a diameter less than a diameter of the cyclonic airflow chamber adjacent the separator plate to thereby define a gap between the separator plate and the cyclonic airflow chamber for passage of dirt separated from the dirt containing airstream in the cyclonic airflow chamber.

Hitzelberger et al further teaches wherein the dirt collecting bin is below the cyclonic airflow chamber. Hitzelberger et al further teaches wherein the dirt collecting bin wall is positioned in a lower portion of the dirt collecting bin. Hitzelberger et al further teaches wherein the standpipe is centrally located in the dirt collecting bin. Hitzelberger et al further teaches wherein the airstream suction source is positioned in the housing below the filter chamber and has an inlet opening in communication with the filter chamber to

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draw the airstream through the filter chamber. Hitzelberger et al further teaches wherein the filter chamber includes a filter that is removably mounted within the filter chamber.

Claims 15,18-23 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hitzelberger et al(7152275).

Hitzelberger et al teaches a cyclone separator module comprising a housing defining a cyclonic airflow chamber for separating contaminants from a dirt containing airstream, the housing further comprising a cyclonic chamber inlet(48) and an airstream outlet(58) in fluid communication with the cyclonic airflow chamber, a dirt collecting bin(28) mounted to the housing adjacent the cyclonic airflow chamber and in communication therewith to receive dirt separated from the airstream in the cyclonic airflow chamber, a hollow standpipe(60) extending through the dirt collecting bin, in communication with the airstream outlet of the cyclonic airflow chamber and extending through a wall in the dirt collecting bin, and a filter chamber(not shown; column 4 lines 57-64) mounted to the dirt collecting bin including an inlet opening in communication with the standpipe to remove fine particles from the airstream that passes through the airstream outlet in the cyclonic airflow chamber. Hitzelberger et al further teaches a separator plate(84) between the cyclonic airflow chamber and the dirt collecting bin and separating the cyclonic airflow chamber from the dirt collecting bin, the separator plate having a diameter less than a diameter of the cyclonic airflow chamber adjacent the separator plate to thereby define a gap between the separator plate and the cyclonic airflow chamber for passage of dirt separated from the dirt containing airstream in the

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cyclonic airflow chamber. Hitzelberger et al further teaches wherein the dirt collecting bin is below the cyclonic airflow chamber. Hitzelberger et al further teaches wherein the dirt collecting bin wall is positioned in a lower portion of the dirt collecting bin.

Hitzelberger et al further teaches wherein the standpipe is centrally located in the dirt collecting bin. Hitzelberger et al further teaches wherein the airstream suction source is positioned in the housing below the filter chamber and has an inlet opening in communication with the filter chamber to draw the airstream through the filter chamber. Hitzelberger et al further teaches wherein the filter chamber includes a filter that is removably mounted within the filter chamber.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,16,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hitzelberger et al(7152275) taken together with Oh (2002/0178702).

Hitzelberger et al teaches all of the limitations of claim 2,3,16,17 but is silent as to wherein the filter chamber and dirt collecting bin are removably mounted to the housing for selective removal therefrom. Oh teaches a vacuum cleaner with cyclone separation chamber and a dirt collecting bin which is removably mounted to the cyclone chamber for selective removal therefrom. It would have been obvious to someone of ordinary skill in the art at the time of the invention to provide for a filter chamber and dirt

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collecting bin are removably mounted to the housing of Hitzelberger et al to provide for selective removal of the bin and easier emptying of the collected dust.

Claims 10-14 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hitzelberger et al(7152275).

Hitzelberger et al teaches all of the limitations of claims 10-14 and 24-28 but is silent as to wherein the filter is cylindrical. Examiner respectfully submits that cylindrical filters are well known, and the reference teaches a foam filter, but does not teach the shape of the filter, therefore through design choice of a well known cylindrical filter, it would have been obvious to someone of ordinary skill in the art at the time of the invention to provide a cylindrical filter in Hitzelberger et al to provide for optimal airflow through the filter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Thursday, 7:30am-5pm, every Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rah  
August 26, 2009

/Robert A Hopkins/  
Primary Examiner, Art Unit 1797